



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 5769-99

10 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 30 June 1980 at the age of 18. Your record reflects that on 10 November 1980 you received nonjudicial punishment (NJP) for possession of marijuana. The punishment imposed was restriction and extra duty for 45 days and \$440 forfeiture of pay.

Your record further reflects that on 5 October 1982 you were convicted by civil authorities of third degree murder and criminal conspiracy. You were sentenced to 10-to-20 years for the murder conviction and 5-to-10 years for the conspiracy conviction. Shortly thereafter, on 12 May 1983, you were notified of pending administrative separation by reason of misconduct due to civil conviction. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 11 July 1983 an ADB recommended you be issued an other than honorable discharge by reason of misconduct due to civil conviction. Your commanding officer also recommended an other than honorable discharge. The discharge authority approved the foregoing recommendations and directed your commanding officer to issue you an other than honorable

discharge by reason of misconduct due to civil conviction. On 18 November 1983 you were so discharged.

The Board, in its review of your entire record and application considered all mitigating factors, such as your good post service conduct. The Board also considered your contention that your discharge is unjust and you would like it upgraded because your civil conviction had nothing to do with your military service. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your misconduct in the civilian community, and your in-service drug abuse. Given all the circumstances of your case the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a resumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director